

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CARLOS SERRANO,

Petitioner,

-against-

SUPERINTENDENT,

Respondent.

20-CV-6320 (CM)

ORDER

COLLEEN McMAHON, Chief United States District Judge:

Petitioner, appearing *pro se*, submitted a letter to this Court, seeking a one-year extension of time to file a petition for a writ of *habeas corpus* to challenge his conviction. *See Serrano v. Supt.*, ECF 1:20-CV-6320, 1 (S.D.N.Y.) (“*Serrano I*”). The letter, which was received on August 11, 2020, was opened as a new civil action. (*See id.*)

On August 18, 2020, Petitioner submitted a partially completed petition for a writ of *habeas corpus* under 28 U.S.C. § 2254 and an application to proceed *in forma pauperis* (IFP); he also requested an extension of time to pursue his federal *habeas* claims. *See Serrano v. Royce*, ECF 1:20-CV-6660, 2 (S.D.N.Y.) (“*Serrano II*”).

Because Petitioner has filed a petition and an IFP application in *Serrano II*, and no useful purpose would be served by litigating *Serrano I*, the Court directs the Clerk of Court to administratively close *Serrano I*, without prejudice to Petitioner’s litigation of *Serrano II*.¹

CONCLUSION

The Clerk of Court is directed to mail a copy of this order to Petitioner and note service on the docket.

¹ The Court notes that in this action, it lacks jurisdiction to grant Petitioner’s request for an extension of time because a petition has not been filed. *See Green v. United States*, 260 F.3d 78, 82 (2d Cir. 2001); *see, e.g.*, *Alvarez v. Doe*, No. 19-CV-9003, 2019 WL 5205595, at *3 (S.D.N.Y. Oct. 11, 2019) (“Because Petitioner has not yet filed any petition[] under 28 U.S.C. § 2254, the Court lacks jurisdiction to grant his request.”).

The Court directs the Clerk of Court to administratively close this action, without prejudice to *Serrano v. Royce*, ECF 1:20-CV-6660, 2.

Because the current petition makes no substantial showing of a denial of a constitutional right, a certificate of appealability will not issue. *See* 28 U.S.C. § 2253.

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppededge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: August 26, 2020
New York, New York



COLLEEN McMAHON
Chief United States District Judge